

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

CECIL DON VINEYARD,)	
)	
Petitioner,)	
)	
V.)	CIVIL ACTION NO.
)	5:01-CV-173-C
DOUGLAS DRETKE, Director,)	
Texas Department of Criminal Justice,)	
Correctional Institutions Division,)	
)	
Respondent.)	

ORDER

The United States Court of Appeals for the Fifth Circuit remanded this case for a determination as to whether Petitioner Cecil Don Vineyard is entitled to equitable tolling of the one-year limitations period, 28 U.S.C. § 2244(d), applicable to habeas corpus petitions.


Under authority of 28 U.S.C. § 636(b), the issue of equitable tolling was referred to United States Magistrate Judge Nancy M. Koenig. An attorney was appointed to represent Petitioner, and an evidentiary hearing was held on July 7, 2005.

The Magistrate Judge entered her Findings of Fact and Conclusions of Law on August 5, 2005, and Petitioner filed his objections on August 12, 2005.

This Court has made an independent review of the record in this case. Petitioner's objections are **overruled**, and the Magistrate Judge's findings and conclusions are hereby **adopted**. The Court finds that no conditions exist for equitable tolling and that Petitioner's habeas petition should be dismissed as time-barred.

It is, therefore, ORDERED that the Findings of Fact and Conclusions of Law of the United States Magistrate Judge are adopted and Petitioner's petition for a writ of habeas corpus under 28 U.S.C. § 2254 is dismissed as time-barred.

Dated September 8, 2005.



SAM R. CUMMINGS
UNITED STATES DISTRICT COURT